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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120424023-1023-01]

RIN 0648-XC223

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #15 through #21

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons and landing and possession limits; request for comments.

SUMMARY: NOAA Fisheries announces 7 inseason actions in the ocean salmon fisheries.

These inseason actions modified the commercial and recreational fisheries in the area from the U.S./Canada Border to Cape Falcon, Oregon.

DATES: The effective dates for the inseason action are set out in this document under the heading Inseason Actions. Comments will be accepted through [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2012-0079, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter

NOAA-NMFS-2012-0079 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- Mail: William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA, 98115-6349
- Fax: 206-526-6736, Attn: Peggy Mundy

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206-526-4323.

#### SUPPLEMENTARY INFORMATION:

##### Background

In the 2012 annual management measures for ocean salmon fisheries (77 FR 25915, May 2, 2012), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada Border to the U.S./Mexico Border, beginning May 1, 2012, and 2013 salmon seasons opening earlier than May 1, 2013.

NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Prior to taking inseason action, the Regional Administrator (RA) consults with the Chairman of the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)(1)). Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada Border to Cape Falcon, Oregon) and south of Cape Falcon (Cape Falcon, Oregon to the U.S./Mexico Border).

#### Inseason Actions

The table below lists the inseason actions announced in this document.

Inseason action number	Effective date	Salmon fishery affected
15	August 29, 2012	Commercial and Recreational fisheries from U.S./Canada Border to Cape Falcon, Oregon
16	September 1, 2012	Recreational fishery from Queets River to Leadbetter Point (Westport subarea)
17	September 3, 2012	Recreational fishery from Leadbetter Point to Cape Falcon, Oregon (Columbia River subarea)
18	August 31, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon
19	September 5, 2012	Commercial and Recreational fisheries from U.S./Canada Border to Cape Falcon, Oregon
20	September 7, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon
21	September 5, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon

Inseason actions #15, #16, #17, and #18

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) on August 29, 2012. The information considered during this consultation related to catch and effort to date in the commercial and recreational salmon fisheries north of Cape Falcon. Four inseason actions were implemented as a result of this consultation.

Inseason action #15 transferred 1,000 coho salmon from the north of Cape Falcon commercial mark-selective coho salmon fishery quota to the north of Cape Falcon recreational salmon fishery quota. The quota transfer was distributed 80 percent (800 fish) to the Neah Bay subarea (U.S./Canada Border to Cape Alava) and 20 percent (200 fish) to the La Push subarea (Cape Alava to Queets River). This action resulted in the following quota adjustments: north of Cape Falcon commercial quota decreased from 13,280 to 12,280 marked coho salmon; Neah Bay recreational quota increased from 7,250 to 8,050 coho salmon; and La Push recreational quota increased from 1,760 to 1,960 coho salmon. This action was taken to prevent closure of recreational fisheries, due to projected attainment of quota, by transferring unutilized quota from the commercial fishery. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #15 took effect on August 29, 2012, and remains in effect until the end of the fishing season. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason action #16 adjusted the daily bag limit for the recreational salmon fishery in the Westport subarea (Queets River to Leadbetter Point) to allow retention of unmarked coho, as anticipated in the 2012 annual management measures (77 FR 25915, May 2, 2012). Inseason action #16 set the daily bag limit at two fish per day only one of which can be a coho salmon and unmarked coho may be retained. This action was taken to allow greater access to available coho

quota in the recreational fishery. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #16 took effect on September 1, 2012, superseding that portion of inseason action #13 that applied to the Westport subarea (77 FR 55426, September 10, 2012), and remained in effect until superseded by inseason action #23 on September 13, 2012. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

Inseason action #17 adjusted the daily bag limit for the recreational salmon fishery in the Columbia River subarea (Leadbetter Point to Cape Falcon) to allow retention of unmarked coho, as anticipated in the 2012 annual management measures (77 FR 25915, May 2, 2012). Inseason action #17 set the daily bag limit at two fish per day and unmarked coho salmon may be retained. This action was taken to allow greater access to available coho quota in the recreational fishery. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #17 took effect on September 3, 2012, superseding inseason action #14 (77 FR 55426, September 10, 2012), and remains in effect until the end of the fishing season or subsequent inseason action. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

Inseason action #18 adjusted the landing limit in the commercial salmon fishery north of Cape Falcon from 120 Chinook salmon and 40 marked coho per vessel per open period to 150 Chinook salmon and 40 marked coho per vessel per open period. This action was taken to allow greater access to available Chinook salmon. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #18 took effect on August 31, 2012, superseding the portion of inseason action #12 that applied to landing limit (77 FR 55426, September 10, 2012) and remained in effect until superseded by inseason action #20 on September 7, 2012. Inseason modification of landing limits is authorized by 50 CFR 660.409(b)(1)(ii).

## Inseason actions #19, #20, and #21

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) on September 5, 2012. The information considered during this consultation related to catch and effort to date in the commercial and recreational salmon fisheries north of Cape Falcon. Three inseason actions were taken as a result of this consultation.

Inseason action #19 transferred 500 coho salmon from the north of Cape Falcon commercial mark-selective coho salmon fishery quota to the north of Cape Falcon recreational salmon fishery quota. The quota transfer was distributed 60 percent (300 fish) to the Neah Bay subarea (U.S./Canada Border to Cape Alava) and 40 percent (200 fish) to the La Push subarea (Cape Alava to Queets River). This action resulted in the following quota adjustments: north of Cape Falcon commercial quota decreased from 12,280 to 11,780 marked coho salmon; Neah Bay recreational quota increased from 7,250 to 8,350 coho salmon; and La Push recreational quota increased from 1,760 to 2,160 coho salmon. This action was taken to prevent closure of recreational fisheries, due to projected attainment of quota, by transferring unutilized quota from the commercial fishery. On September 5, 2012, the states recommended this action and the RA concurred; inseason action #19 took effect on September 5, 2012, and remains in effect until the end of the fishing season. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason action #20 took effect on Friday, September 7, 2012, to close the commercial salmon fishery in marine area 4 (U.S./Canada Border to Cape Alava); marine areas 1, 2, and 3 (Cape Alava to Cape Falcon) remain open with a landing and possession limit of 150 Chinook and 50 coho per vessel per open period, unmarked coho may be retained. Vessels fishing, or in

possession of salmon while fishing, north of Leadbetter Point must land and deliver their fish north of Leadbetter Point in any port in marine areas 2, 3, or 4. Vessels fishing, or in possession of salmon while fishing, south of Leadbetter Point must land and deliver their fish south of Leadbetter Point. Inseason action #20 superseded inseason action #18, and remains in effect until the end of the fishing season or subsequent inseason action. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason action #21 adjusted the Chinook salmon quota in the commercial salmon fishery north of Cape Falcon for the summer season (July 1 through September 17, 2012) by rolling over unused quota from the spring season (May 1 through June 30, 2012) on an impact-neutral basis, effective September 5, 2012. The net effect of inseason action #21 was to increase the summer quota by 850 Chinook salmon to 16,650. Transfer of unused quota from the spring commercial fishery to the summer commercial fishery is anticipated in the 2012 annual management measures (77 FR 25915, May 2, 2012). Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2012 Ocean Salmon Fisheries (77 FR 25915, May 2, 2012) and subsequent inseason actions (77 FR 55426) not otherwise modified herein.

The RA determined that the best available information indicated that the stock abundance, and catch and effort projections supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206-526-6667 and

800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (77 FR 25915, May 2, 2012), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan (50 CFR 660.409 and 660.411).

Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, thus allowing fishers access to the available fish at the time the fish were available while ensuring that quotas are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures.



These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 5, 2012

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Lindsay Fullenkamp,

Acting Deputy Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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